

SEP 12 2006

REMARKS

Claims 1-5, 8-12, 14-17, 20-23, 35 and 37-39 are pending, with claims 1, 12 and 35 being the independent claims. Claims 1, 12 and 35 have been amended. Support for the amendment to the claims may be found, for example, at pg. 13, line 24 of the originally filed specification. No new matter has been added. Reconsideration of the application, as amended, is respectfully requested.

In the Office Action dated June 19, 2006, independent claims 1, 12 and 35, and dependent claims 2-5, 8, 9, 11, 14-17, 20, 21, 23, 37 and 39 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,119,014 ("*Alperovich*") in view of U.S. Patent No. 6,289,223 ("*Mukherjee*"), while dependent claims 10, 22 and 38 were rejected under 35 U.S.C. §103(a) as unpatentable over *Alperovich* in view of *Mukherjee*, and further in view of U.S. Patent No. 6,732,273 ("*Beyers*"). For the following reasons, it is respectfully submitted that all claims of the present application are patentable over the cited references.

Independent claims 1, 12 and 35 have been amended to change all occurrences of "allowed to" so as to now recite --permitted to--. The foregoing amendment does not present a new issue that would require further consideration and/or search.

The Office Action (pg. 2-3) states:

Alperovich discloses a method for delivering messages in a network (Figs. 1-4) ... comprising:

transmitting said delivery report to the originator of said message only when said originator of said message is permitted the delivery report (e.g. when the message was not delivered) (col. 2, line 20 - col. 3, line 11);

Alperovich discloses transmitting a delivery report to an originator that is permitted to receive the report. However, Alperovich does not disclose a list of originators of messages which are permitted to receive delivery reports is stored in a database.

Mukherjee discloses a system and method for enabling an originating mobile unit to deliver SMS messages to a select plurality of destination mobile units (see Abstract)

...

Wherein Mukherjee further discloses the step of deciding whether the originator of said message is permitted to receive a delivery report, and transmitting said delivery report to the originator of said message only in case said originator of said message is permitted (col. 6, lines 21-30) and the step of storing a

list of originators of messages in a database which are permitted to receive delivery reports (col. 6, lines 21-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Alperovich to include storing a list of originators of messages, which are permitted to receive delivery reports, in a database as taught by Mukherjee.

With respect to the foregoing, Applicant respectfully asserts that the combination of *Alperovich* and *Mukherjee* fails to achieve the invention recited in independent claims 1, 12 and 35. *Alperovich* (col. 2, lines 19-22) states "the mobile terminated SMS 210 transfers a short message from the Service Center 220 to the MS 200. In addition, information about the delivery of the short message is returned to the Service Center 220". *Alperovich* (col. 2, lines 23-28) further states, "this information is either a delivery report, which confirms the delivery of the message to a recipient, or a failure report, which informs the originator that the short message was not delivered and the reason why. If the information is a failure report, the originator has the ability to order retransmission later". *Alperovich* thus teaches that delivery reports are sent to an originator who then has the ability to request the retransmission of a failed SMS transmission. However, there is nothing with respect to limiting the sending of the delivery report to only the originator of a message that is permitted to receive the delivery report.

Alperovich (col. 2, lines 29-47) teaches the flow path of SMS messages. *Alperovich* (col. 2, lines 48-63) teaches the conditions under which failure reports are sent. *Alperovich* (col. 2, lines 64 thru col. 3, line 11) teaches the conditions under which a failure report is sent to a service center 220 when a mobile originated SMS message is submitted by a mobile station to the Service Center 220. However, there is nothing in these sections of *Alperovich* with respect to deciding whether an originator of a message is allowed to receive a delivery report. That is, no determination is performed as to whether this originator is actually allowed to receive the delivery report. *Alperovich* (col. 2, line 20 thru col. 3, line 11) merely teaches that delivery reports are actually sent.

Mukherjee has been cited based on the failure of *Alperovich* to teach or suggest that a list of originators of messages which are permitted to receive delivery reports is stored in a database. *Mukherjee* in combination with *Alperovich* fails to achieve the invention recited in independent claims 1, 12 and 35. *Mukherjee* (col. 6, lines 21-30) states, "if the SC 170, upon interrogation of select multipoint usergroup database 26, determines that there are no user restrictions, the SC

170 processes the selective short message deliveries and generates a delivery report, which is also forwarded back to the SMS-IW MSC 160 (step 174), and in turn forwarded to the MSC 140 (step 164). The originating MS 120 is notified of successful delivery upon reception of the delivery report from the MSC 140 (step 148)". *Mukherjee* thus teaches that selective short message deliveries are processed and a delivery report is forwarded back to the originator. In *Mukherjee*, this sequence of events is performed when there are no user restrictions. Applicant respectfully asserts that within the context of *Mukherjee*, the user restrictions refer to the full process of sending a message and sending the corresponding delivery report, not merely to only sending delivery reports.

Moreover, *Mukherjee* fails to teach or suggest that the user restrictions can be established such that some originators are excluded from sending a message, etc, as is possible with the invention recited in independent claims 1, 12 and 35. In fact, a list of originators is nowhere to be found in col. 6, lines 21-30 of *Mukherjee*. Thus, *Mukherjee* when combined with *Alperovich* fails to achieve the invention recited in independent claims 1, 12 and 35. In view of the foregoing, independent claims 1, 12 and 35 are patentable over *Alperovich*, either individually or in combination with *Mukherjee*. Consequently, reconsideration and withdrawal of the rejection under 35 U.S.C. §103 are in order, and a notice to that effect is requested.

Byers has been cited by the Examiner to provide what *Alperovich* lacks, i.e., a multimedia message, as recited in dependent claims 10, 22 and 38. *Byers* relates to a system that assigns a message characterization code to an electronic mail message that enables the router as well as the destination message server to more efficiently process the electronic mail message, based upon the message characterization code (see col. 1, lines 8-13). However, *Byers* fails to cure the deficiency of *Alperovich* and/or *Mukherjee*, since *Byers* also fails to teach or suggest anything to do with restricting delivery reports. In view of the foregoing, dependent claims 10, 22 and 38 are patentable based on their dependency on independent claims 1, 12 and 35, respectively. Therefore, reconsideration and withdrawal of the all rejections under 35 U.S.C. §103 are in order, and a notice to that effect is requested.

In view of the patentability of independent claim 1, 12 and 35, for the reasons set forth above, dependent claims 2-5, 8-11, 14-17, 20-23 and 37-39 are also patentable over the cited prior art.

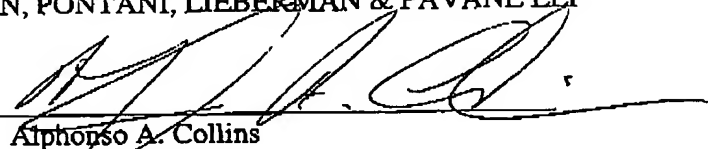
SEP 12 2006

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is requested.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE LLP

By



Alphonso A. Collins
Reg. No. 43,559
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: September 12, 2006